

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS**

GABRIEL MANGUM,

Plaintiff,

v.

**CIVIL ACTION NO. 2:16-CV-77
(BAILEY)**

UNITED STATES OF AMERICA,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge Michael John Aloï [Doc. 34]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Aloï for submission of a proposed report and recommendation ("R&R"). Magistrate Judge Aloï filed his R&R on June 5, 2017, wherein he recommends this Court grant the defendant's motion to dismiss and dismiss the plaintiff's Complaint with prejudice.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); ***Snyder v. Ridenour***, 889 F.2d 1363, 1366 (4th Cir. 1989); ***United States v. Schronce***, 727 F.2d 91,


94 (4th Cir. 1984). Here, objections to Magistrate Judge Aloï's R&R were due within fourteen (14) days of service, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). The docket reflects that service was accepted on June 8, 2017. [Doc. 35]. However, the mail was thereafter returned as undeliverable, stating that the plaintiff was no longer located at that address. [Doc. 36]. As such, the R&R was sent to the plaintiff at his new address on June 12, 2017, resetting the time in which the plaintiff had to respond. [*Id.*]. The docket reflects that service of the R&R was accepted at the correct address on June 23, 2017. [Doc. 37]. To date, no objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the above, it is the opinion of this Court that the **Report and Recommendation [Doc. 34]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, this Court **ORDERS** that the defendant's Motion to Dismiss or, Alternatively for Summary Judgment **[Doc. 25]** be **GRANTED**. As such, the plaintiff's Complaint **[Doc. 1]** is hereby **DISMISSED WITH PREJUDICE**. This Court further **ORDERS** that this matter be **STRICKEN** from the active docket of this Court and **DIRECTS** the Clerk to enter judgment in favor of the defendant.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record herein and to mail a copy to the *pro se* plaintiff.

DATED: July 12, 2017.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE